

REMARKS

Claims 2-9 are pending.

Original claim 1 was canceled previously.

Applicant gratefully acknowledges the Examiner's thorough review of the application and the recommendations for purposes of clarity. Several of the recommendations such as amending claims 3 and 9 have been adopted. Likewise the misspelling in claim 2 has been corrected. However, Applicant respectfully traverses the rejection of claims 2, and 4-8 under 35 under §112 ¶1 and the specified rejections in under 35 under §112 ¶2 of claims 2 and 5. In connection with objection to the broad descriptive word "ligands", Applicant submits that the broad generic term is adequately supported and consistent with the variety of disparate candidates, e.g., sugars and proteins, identified in the specification, Protein A, Protein L, Protein G on Page 11, sucrose, trehalose,, sorbitol, streptavidin or glutathione derivatized with agarose on page 12. Significantly, the invention herein is directed to chromatography media and methods not to a particular composition of ligand. As a chromatograph medium, the particular choice of ligand is not critical. So long as a ligand, of whatever choice, satisfies the recited functional characteristics in the context of this invention, its particular composition can be, essentially, generic, as ligands go.

Indeed, the USPTO has often accepted the term ligand, without further delimitation, as sufficiently definite in the context of functional claims language: *See, for example*, US Pat. No. 6,548,046 (Claim 1- "... wherein said target tissue is bound to a *ligand* specific for said target tissue and wherein *said ligand* is directly coupled to..."); US Pat. No. 6,300,317 ("... said agent comprising a

ligand for a receptor located on the eukaryotic cell surface...); See also claim 1 of US Pat. No. 6,340,661 and claim 2 of US Pat. No. 6,638,908

In addition to the USPTO, the term "Ligand" when used generically in claims has been accepted as a definite claim term in the case law.

See, *Abbott Labs. v. Syntron Bioresearch, Inc.*, 334 F.3d 1343, 67 U.S.P.Q.2 1337 (Fed. Cir. 2003) (Claim 22 of US 5,073,484 -- "member of a *ligand*-antiligand binding pair" -- favorably evaluated); *Biacore v. Thermo Bioanalysis Corp.*, 79 F. Supp. 2d 422 (D. Del. 1999) (... "a hydrogel which is bound to a surface and via which a desired ligand can be bound.")

In view of the functional requirement for the "ligand" recited in claim 2, the details provided in the specification of the instant application, the regular acceptance of the generic word "ligand" in claims by the USPTO as well as the courts, and the foregoing comments and observations, Applicant requests reconsideration and withdrawal of the rejection.

Applicant, likewise, respectfully traverses the rejection of claim 5 for use of the word "rapidly." The term "rapidly" is used in the context to measure velocity of rehydration. Again Applicant turns to examples of prior acceptance by the USPTO of "rapid" and "rapidly" to describe rehydration characteristics in claims. (See, for example, claim 1 of US 5,419,918 "suitable for minimizing the rapid hydration and gel formation of HPMC..."; Claim 1 of US 6,107,083 "a rapidly rehydrating gas-permeable cover layer disposed over the enzymatic layer..."; claim 1 of US 5,273,767 "A modified, rapidly hydrating xanthan gum")

Furthermore rapid hydration is described on Page 7 of the specification as a distinguishing feature from the prior art in the discussion about Figure 2.

In view of these facts, Applicant submits that the rejection to claim 5 should be withdrawn.

In view of the foregoing comments and observations, Applicant requests reconsideration and withdrawal of the rejection.

Applicant submits that the foregoing is responsive to the all of the Examiner's concerns expressed in the February 27, 2004 Office Action. Applicant respectfully solicits favorable reconsideration of the application and allowance of the listed claims as now amended. If in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call the undersigned.

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